

that the individual involved is otherwise required to contribute to the Civil Service Retirement and Disability Fund as a condition for participating in the Civil Service Retirement System or the Federal Employees' Retirement System, as the case may be.

§ 1620.36 Employee make-up contributions.

(a) If the employee chooses, the employing authority must compute the amount of employee contributions for which the employee would have been eligible to make after April 1, 1987, from the employee's net payable salary according to a schedule of equal payments that the employee has agreed to. The employee must make this election within 30 days of the date that he or she is notified by the employing authority of the opportunity to schedule make-up payments, or forfeit the opportunity to do so. The employing authority may set a ceiling on the number of pay periods over which the make-up payments may be made; however, this ceiling may not be less than two times the number of pay periods in which the payments could have been made. The payment schedule must begin no later than the pay period following the date of the agreed-upon schedule and it may not contain more than four times the number of pay periods in which the payments could have been made.

(b) If the agreed-upon payment schedule cannot be met because the employee has insufficient net pay or because the employee has reached an annual ceiling for tax-deferred contributions under 26 U.S.C. 402(g) or 415, the payment schedule will be suspended until the employee is again able to make full payments through payroll deductions. Pay periods that are prescribed in the payment schedule, and for which an employee is unable to make payments because of insufficient net pay or a ceiling on tax-deferred contributions, will not be counted against the maximum number of pay periods applicable to the schedule and the maximum number of applicable pay periods must be extended accordingly. Employees may not make partial payments under a payment schedule.

(c) If an employee chooses to contribute the make-up amount, he or she may terminate that decision and that termination shall be irrevocable. If an employee separates from employment in such a way as to become ineligible to participate in the Thrift Savings Plan, the employee may terminate the retroactive contribution or accelerate the contribution by lump sum payment from the final salary payment (not including any lump sum annual leave payment). If the employee dies, the retroactive contribution of the deceased employee will be terminated as of the final salary payment.

(d) The retroactive payment amount is not subject to the maximum pay period contribution limitations; however, these amounts must be included when determining amounts subject to annual ceilings on contributions under 26 U.S.C. 402(g) or 415.

(e) In the event an employee does not have sufficient net pay to make all of the Thrift Savings Plan deductions, the employee's regular Thrift Savings Plan deduction shall take precedence over the employee's payment schedule contribution.

§ 1620.37 Make-up contributions by employing authority.

Make-up contributions by the employing authority are not subject to the limitations on maximum pay period contributions; however, these amounts must be included when determining amounts subject to any applicable annual ceiling described in 26 U.S.C. 415.

§ 1620.38 Payment to the record-keeper.

The employing authority is responsible for transmitting employer and employee contributions to the employee's Federal agency of record. Employee contributions will be deducted from the employee's actual pay. The employee's agency of record is responsible for transmitting the employer and employee contributions to the Board's Recordkeeper. The employee's election form (TSP-1) will be filed in the employee's official personnel folder.